

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 22842 of 2004

Between:

Smt.G.Indira, W/o. Satyanarayana,
Primary School, Choppadandi Villae & Mandal,
Karimnagar District.

..... PETITIONER

AND

1. The Chief Executive Officer, Zilla Parishad, Karimnagar.
2. The Mandal Parishad Development Officer, Koheda

Mandal, Karimnagar District.

3. The Director of School Education, Andhra Pradesh,
Hyderabad.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a Writ, order or direction or directions more particularly one in the nature of Writ of Mandamus declaring the Order passed by the A.P. Administrative Tribunal in O.A.No.5868 of 1995 Dated 30-12-2003 in so far as denying the petitioner monetary benefits, for the period from 31-12-1991 to 19-6-1994 as illegal, arbitrary and violative of Art. 14, 16 and 21 of the Constitution of India and consequently declare that the petitioner is entitled for monetary

benefits for the period from 31-12-1991 to 19-6-1994.

Counsel for the Petitioner: MR.M.VIJAY KUMAR

Counsel for the Respondent Nos.1 and 2: Smt.Jyothi Eswar Gogineni.

Counsel for the Respondent No.3: GP FOR SERVICES I

The Court at the admission stage made the following:

ORDER: (per GB,J)

This writ petition is filed assailing the order, dated 30-12-2003, passed by the Andhra Pradesh Administrative Tribunal (for short "the Tribunal"), in O.A.No.5868 of 1995 to the extent, which is adverse to the interest of the petitioner.

2. The petitioner is the applicant before the Tribunal. She has been working as a Secondary Grade Teacher at Primary School, Choppadandi village and Mandalo, Karimnagar District. While the petitioner was working at Arepally Primary School, she was involved in an accident in October 1991 and thereafter, she remained absent on account of the injuries sustained by her. However, after treatment, when she reported for duty on 31-12-1991, she was not allowed to join duty on the ground that the matter is required to be referred to higher authorities for necessary clarification.

3. It is the case of the petitioner that she has been reporting to the employer from time to time, but she was not allowed to join duty on the ground that clarification is required from the higher authorities. The matter was referred to the Government and subsequently, the Government directed that the petitioner should be taken back to duty immediately, basing on which, the petitioner was taken to duty on 20-06-1994. But, however, the petitioner was not granted the leave for the period of absence and also for the period after she reported for duty on 31-12-1991. The Government, however, issued order directing the authorities to treat the period of absence from 21-10-1991 to 31-12-1991 on account of illness as extraordinary leave by order, dated 29-03-1993. The petitioner filed the O.A.No.5858 of 1995 seeking a direction to treat the period

from 31-12-1991 to 19-06-1994 as compulsorily wait and the same should be treated as on duty with full wages under Fundamental Rule 9(6) and Subsidiary Rule-13. Since there was no response, the Tribunal, after considering the matter, held that since the petitioner was permitted to join duty, that period has to be treated as in service and counted for the purpose of pensionary benefits. It is also ordered that the petitioner herein is entitled to notional increments on that basis, but the Tribunal denied the monetary benefits for the aforesaid period. The present writ petition has been filed to the extent of monetary benefits, which were denied by the Tribunal.

4. The learned counsel for the petitioner submits that when once the petitioner has reported for duty on

13-12-1991, the Management is under obligation to take her on duty and regularize the period of absence according to Rules, but denial of entry to join the duty is illegal and contrary to law and, therefore, the Tribunal ought to have granted full wages for the period for which the petitioner was kept out of employment. The said leave has to be treated as compulsorily wait for the purpose of pay and allowance. It is also stated that even though the petitioner made a representation to the Government on 08-08-1994, there was no response in that regard. Be that as it may, the order passed by the Tribunal without granting the relief is illegal and contrary to law.

5. The learned Government Pleader, however, submits that since the representation was pending before the Government, the Government may be directed to give appropriate direction in this regard.

6. In view of long lapse of time, we are not inclined to accept such a course of action, but we find it appropriate to decide the matter before this Court itself.

7. The only issue that arises for consideration is as to whether the petitioner is entitled to payment of full wages for the period from 31.12.1991 to 19.06.1994.

8. Admittedly, the petitioner reported for duty after illness on 31-12-1991 and it is incumbent on the part of the authorities to refuse her to join duty pending clarification with regard to payment of wages from 31-12-1991. It is also on record that instead of giving posting order, the management entered into correspondence with the Government in this regard and pending the clarification, the petitioner was not taken for duty, even though there is no warrant for such a situation. What was required to be realized is the period of absence on account of illness, but not the period subsequent to reporting for duty. The Tribunal has observed that there were laches on the part of the applicant-petitioner herein, as well as on the part of the respondents also. The petitioner has waited for such a long period as no appropriate orders were passed for joining her to duty. Thus, we also agree with the finding of the Tribunal that the laches are established both on the part of the applicant as well as on the part of the respondents. But the question that calls for consideration is as to whether the petitioner is entitled for full wages for the said period.

9. Since the petitioner was not allowed to join duty and there is an inordinate delay on the part of the respondents in deciding the matter and ultimately she was allowed to join the duty on 20-06-1994, we are of the considered view that the petitioner is entitled for 50% of wages for the period from 01-01-1992 to 19-06-1994. The Tribunal ought to have considered this matter and granted appropriate relief.

10. Under those circumstances, the Writ Petition is allowed and the petitioner is entitled to 50% of the wages for the period from 01-01-1992 to 19-06-1994. The above wages shall be paid within three months from the date of receipt of a copy of this Order.

11. Subject to the above condition, the writ petition is allowed. No costs.

G.BIKSHAPATHY,J

P.S.NARAYANA,J

Date: 09-02-2005

Prv

To

1. The Chief Executive Officer, Zilla Parishad, Karimnagar.
2. The Mandal Parishad Development Officer, Koheda

Mandal, Karimnagar District.

3. The Director of School Education, Andhra Pradesh,
Hyderabad.
4. Two CCs to G.P. for Service I, High Court of Andhra
Pradesh, Hyderabad (OUT).
5. Two CD copies.